

**Notice of Allowability****Application No.**

10/621,189

**Applicant(s)**

SMITH, STEVEN D.

**Examiner**

Steven L. Weinstein

**Art Unit**

1761

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the preliminary amendment filed 7/15/03 and the interview of 11/26/03
2. ☒ The allowed claim(s) is/are 18-20, renumbered claims 1-3, respectively
3. ☒ The drawings filed on 7/15/03 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).  
\* Certified copies not received: \_\_\_\_\_
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
(a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.  
(b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.  
(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1 ☐ Notice of References Cited (PTO-892)  
3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
5 ☒ Information Disclosure Statements (PTO-1449), Paper No. 7/15/03  
7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material  
2 ☐ Notice of Informal Patent Application (PTO-152)  
4 ☒ Interview Summary (PTO-413), Paper No. 11/26/03  
6 ☒ Examiner's Amendment/Comment  
8 ☐ Examiner's Statement of Reasons for Allowance  
9 ☐ Other

  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761

### EXAMINER'S AMENDMENT

In a telephone interview with Mr. Stallman on November 26, 2003, it was agreed that the following changes would place this application in condition for allowance.

Claims 12-17 have been cancelled and new claims 18-20 have been added as follows:

18. A method of using a combination storage container and infuser apparatus, said apparatus having an infusible substrate storage container having a sealable interior cavity for storing an infusible substrate prior to infusion and a top opening defined by a rim section for providing access to the infusible substrate stored in said container; a lid adapted to be seated in said top opening of said container to form a fluid tight seal with said rim section to seal the storage container so that the infusible substrate may be preserved during storage; and an infuser having an outer peripheral flange configured and dimensioned to be seated over said lid of said container for removable attachment with said container in a first storage position, said infuser having a protruding well portion protruding away from said lid in said first storage position for receiving said infusible substrate, and said infuser further having a plurality of apertures for permitting infusion of said infusible substrate, said method comprising:

removing said infuser from said infusible substrate storage container;

removing said lid from said top opening of said infusible substrate storage container for accessing the infusible substrate within said interior cavity;

obtaining an amount of infusible substrate from said infusible substrate storage container;

placing said amount of infusible substrate within said well portion of said infuser;

placing said infuser within an opening of an associated drinking container in a position inverted from said first storage position such that said infuser engages a portion of the rim of the drinking container such that the protruding well portion extends into the opening of the drinking container; wherein said storage container is different from said associated drinking container; and

pouring a fluid having an elevated temperature through said infuser containing said infusible substrate while said infuser engages said drinking container.

19. The method of claim 18, further comprising:

steeping said infusible substrate to extract flavors from said infusible substrate.

20. The method of claim 18, said apparatus further having a cap, the method further comprising;

placing said infuser on said cap after infusion.

In the specification, in the preliminary amendment filed 7/15/03, under the title "Cross-Reference To Related Applications", after September 26, 2000, -- now U.S. Patent No. 6,622,614, -- has been added;

The title has been changed to read -- Method Of Infusing A Drink --.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (703) 308-0650. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone number for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

S. Weinstein/dh  
November 28, 2003